



DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R1–ES–2022–0062; FXES11130900000C6–234–FF09E42000]

RIN 1018–BG77

Endangered and Threatened Wildlife and Plants; Technical Corrections for 62 Wildlife and Plant Species on the Lists of Endangered and Threatened Wildlife and Plants

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Partial withdrawal of direct final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), are withdrawing, in part, a February 2, 2023, direct final rule that revises the taxonomy of 62 wildlife and plant species listed under the Endangered Species Act of 1973, as amended (Act). For the Hawaiian hoary bat (*Lasiurus cinereus semotus*), we received comments relating to scientific research relevant to its taxonomic classification; and as a result, we are withdrawing the amendment in the direct final rule for this species only. The amendments in the direct final rule for the other 61 wildlife and plant species will be effective on May 3, 2023.

DATES: Effective [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*], the Service withdraws amendatory instruction 2.a published at 88 FR 7142 on February 2, 2023.

ADDRESSES: The direct final rule may be found online at <https://www.regulations.gov> under Docket No. FWS–R1–ES–2022–0062.

FOR FURTHER INFORMATION CONTACT: Marilet Zablan, Program Manager for Restoration and Endangered Species Classification, U.S. Fish and Wildlife Service, Pacific Regional Office, Ecological Services, 911 NE 11th Avenue, Portland, OR 97232; telephone 503–231–6131. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access

telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION:

Background

Our regulations under the Endangered Species Act of 1973, as amended (Act; 16 U.S.C. 1531 *et seq.*), in title 50 of the Code of Federal Regulations at 50 CFR 17.11(c) and 17.12(b) direct us to use the most recently accepted scientific names for species on the Lists of Endangered and Threatened Wildlife and Plants (50 CFR 17.11(h) and 17.12(h)). Accordingly, on February 2, 2023, we published in the *Federal Register* a direct final rule (88 FR 7134) to revise the taxonomy and nomenclature of 62 wildlife and plant species listed under section 4 of the Act (16 U.S.C. 1531 *et seq.*). All of these changes are supported by peer-reviewed scientific studies and reflect taxonomy that has been accepted by taxonomic authorities. Specific references relevant to each species are cited in the text of the February 2, 2023, direct final rule, and the list of references is posted as a supporting document at <https://www.regulations.gov> under Docket No. FWS–R1–ES–2022–0062.

Consequently, we published the direct final rule without a prior proposal because we considered it a noncontroversial action that was in the best interest of the public and should be undertaken in as timely a manner as possible. We stated that if we received comments that provide strong justifications as to why the rule should not be adopted or why it should be changed for any of these species, we would publish a document in the *Federal Register* withdrawing this rule for the appropriate species before the effective date.

Comments on the Direct Final Rule

We received eight comments on the direct final rule. Three of these comments called our attention to continuing scientific disagreement over the taxonomic classification of the Hawaiian hoary bat. These comments concurred with the decision in the direct final rule to

elevate the Hawaiian hoary bat from subspecies to species level, and none of the comments disagreed with amending the common name to include the Hawaiian name (‘ōpe‘ape‘a). However, they noted that moving the Hawaiian hoary bat from the genus *Lasiurus* to *Aeorestes* has not been generally accepted.

As noted in the direct final rule, *Aeorestes* was accepted by the Integrated Taxonomic Information System (ITIS 2022, unpaginated) and the American Society of Mammalogists (2022, unpaginated). Yet, commenters noted that *Lasiurus* continues to be widely used in the scientific literature and was retained by multiple authorities including the American Museum of Natural History (Bats of the World: A Taxonomic and Geographic Database), the Handbook of the Mammals of the World, and the International Union for Conservation of Nature (IUCN) Red List. One commenter attached a detailed review of this taxonomic issue that was recently prepared by the Global Bat Taxonomy Working Group of the IUCN Species Survival Commission Bat Specialist Group, recommending that *Lasiurus* be retained as the genus name for hoary bats, with *Aeorestes* as a subgenus.

We concur that these comments are significant and that the taxonomic status of Hawaiian hoary bat merits further consideration pending a more clear scientific consensus on this issue. Therefore, we are withdrawing that portion of the direct final rule concerning the listed entity Hawaiian hoary bat (*Lasiurus cinereus semotus*). In the future, we may propose changes in the taxonomy of Hawaiian hoary bat with opportunity for further public comment.

Other topics discussed in the comments were not specific to the taxonomic issues raised in the direct final rule. Three commenters expressed approval for inclusion of local common names in addition to English names. Two commenters requested that we also coordinate with the National Oceanic and Atmospheric Administration to amend the common names of two listed sea turtles (green sea turtle (*Chelonia mydas*) and hawksbill sea turtle (*Eretmochelys imbricata*)), so as to include Hawaiian, Chamorro, Carolinian, and Samoan names; sea turtles were not addressed in the direct final rule, but we will consider incorporating this change in a

future action. We did not receive significant adverse comments concerning the taxonomy of the other 61 wildlife and plant species addressed in the direct final rule.

Partial Withdrawal of the Direct Final Rule

For the reasons stated above, we withdraw amendatory instruction 2.a of the direct final rule published on February 2, 2023, at 81 FR 7134–7177.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Plants, Reporting and recordkeeping requirements, Transportation, Wildlife.

Stephen Guertin,
Acting Director,
U.S. Fish and Wildlife Service.

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